No. ~~1762~~

70-219

Supreme Court, U.S.
FILED
MAY 28 1971
E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

ROBERT GEORGE MUNCASTER, PETITIONER

VS.

UNITED STATES OF AMERICA, RESPONDENT,

PETITION FOR WRIT OF CERTIORARI FROM THE SUPREME COURT OF THE UNITED STATES To The United States Court of Appeals for the Fifth Circuit, Etc. and The United States District Court for the Middle District of Alabama, Etc.

ROBERT GEORGE MUNCASTER
Petitioner - Attorney for Himself
1158 SOUTH PERRY STREET
MONTGOMERY, ALABAMA 36104

IN THE SUPREME COURT OF
THE UNITED STATES OF AMERICA

ROBERT GEORGE MUNCASTER, PETITIONER

vs.

UNITED STATES OF AMERICA:
U.S. Court of Appeals, Fifth Circuit,
Clerk of the Court, U.S. Court of Appeals, Fifth Circuit,
John R. Brown, Chief Judge of the U.S. Court of Appeals, Fifth Circuit; and,
U.S. District Court for the Middle District of Alabama,
Clerk of the Court, U.S. District Court for the Middle District of Alabama,
Frank M. Johnson, Jr. Judge of the U.S. District Court for the Middle District of Alabama, RESPONDENTS.

PETITION FOR WRIT OF CERTIORARI FROM THE SUPREME COURT OF THE UNITED STATES To The United States Court of Appeals for the Fifth Circuit, Etc. and The United States District Court for the Middle District of Alabama, Etc.

TO: The Honorable, The Chief Justice and Associate Justices of the Supreme Court of the United States of America.

Your Petitioner Robert George Muncaster respectfully represents and shows this Court as follows:

I
OFFICIAL REPORTS

The Clerk of the Court, U. S. Court of Appeals, Fifth Circuit, on April 30, 1971, entered an Order - ENTRY OF DISMISSAL - to the U. S. District Court for the Middle District of Alabama dismissing your Petitioner's Appeal for alleged violations of the "Military Selective Service Act of 1967".

This ENTRY OF DISMISSAL affirming the Actions of the U. S. District Court for the Middle District of Alabama appeared to be based upon a conditional ORDER of this said Court of Appeals, sealed and signed and dated April 1, 1971.

On May 14, 1971, the said Court of Appeals denied relief asked by your Petitioner in his MOTION to vacate the Dismissal. This MOTION was dated May 3, 1971.

A copy of the two ORDERS, ENTRY OF DISMISSAL and MOTION are included and attached hereto and made a part of this PETITION. See Appendix.

II
JURISDICTION OF THE COURT

The grounds upon which the jurisdiction of the Supreme Court of the United States is invoked are as follows:

That this is an appeal from the Order - ENTRY OF DISMISSAL - dismissing your Petitioner's Appeal from the said U.S. Court of Appeals which final Order was entered on April 30, 1971.

Also sought to be reviewed are the ORDER leading up to this ENTRY OF DISMISSAL as well as the ORDER refusing to reinstate Petitioner's Appeal.

Jurdisdiction is conferred upon the Supreme Court of the United States by Article III., U.S. Constitution; 28 U.S.C. 1651 and 1254; Article VI. and Article I., Section 8, U.S. Constitution; and the common law.

III.
QUESTION PRESENTED FOR REVIEW

Can a U.S. Circuit Court of Appeals arbitrarily dismiss an Appeal while the Appeal is pending during the attempt of the Appellant to have an intermediate ORDER reviewed by a writ of Mandamus in the U.S. Supreme Court?

IV.
CONSTITUTIONAL PROVISIONS INVOLVED

Due Process of Law:

Amendment V:

> No person shall . . . be deprived of life, liberty, or property, without Due Process of Law, . . .

Right to Appeal:

Amendment I:

> Congress shall make no law respecting . . . the right of the people . . . to Petition the government for a Redress of Grievances.

Article III., Section 2, para. 2:

> . . . In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, . . .

V.
STATEMENT OF THE CASE

(1) Your Petitioner was Tried and Convicted May 14, 1970, for alleged violations of the "Military Selective Service Act of 1967".

(2) Petitioner appealed the Judgment and Conviction to the U. S. Court of Appeals, Fifth Circuit on May 22, 1970. Appeal was officially Docketed July 20, 1970. (see copy of Docket in Appendix)

(3) Appellant-Petitioner's Printed Appendix was filed August 31, 1970, with the said Court of Appeals.

(4) Petitioner's Appeals Counsel withdrew from the Case on September 1, 1970. Petitioner proceeded as his own Counsel.

(5) On October 12, 1970, your Petitioner by a PETITION for writ of Mandamus asked the Court for Documents necessary for his defense in order to perfect his Appeals Brief. These Documents had been denied to your Petitioner without a hearing prior to his Jury Trial.

(6) On January 5, 1971, your Petitioner by a PETITION for writ of Mandamus asked the Court for the legal citation on which the Respondent U.S. District Court Judge had founded part of his Judgment and sentencing. These Citations were necessary so your Petitioner could prepare his Appeals Brief.

(7) On January 8, 1971, the U. S. Attorney for the Middle District of Alabama entered a MOTION TO DISMISS your Petitioner's Appeal. Your Peti-

tioner was served no copy of this MOTION by the U. S. Attorney (although he certified he had) nor notified by the Clerk of the said Court of Appeals that it had been Docketed and set for hearing on January 19, 1971. Your Petitioner found out about this Action only accidentally and indirectly. This Hearing set for January 19th was postponed without Notice to Petitioner and, at no time was Petitioner advised of the date when the MOTION would be heard.

(8) As late as January 19, 1971, the date that the said Hearing was first set on the Government MOTION TO DISMISS, none of the Appellant's PETITIONS or other requests and demands for information or extensions of time had even been entered on the Docket in Appellant's File. This was the case in spite of the fact that your Petitioner had repeatedly asked the Clerk of said Court to inform him of the disposition of the PETITIONS, since the information requested in them was necessary for the preparation of your Petitioner's Brief.

(9) Immediately after a fire of undetermined origin broke out in the said Clerk's Office early January 21, 1971, your Petitioner was requested to produce new copies of these PETITIONS "by order of the Court". When your Petitioner requested a copy of these "Orders" of the Court, the Clerk informed him that there was no need to send any copies. This was some time after your Petitioner had already sent the copies requested of him.

(10) All correspondence by your Petitioner to the Clerk of the said Court of Appeals regarding the condition of his records, etc. after the fire

and, regarding his previous requests for information failed to bring a reply in spite of your Petitioner's insistance that the full record be made available to the said Court of Appeals for its consideration.

(11) On Saturday, April 3, 1971, your Petitioner received an official ORDER of the Court of Appeals which was sealed and signed by the Clerk in accordance with 28 U. S. C. 1691 and dated April 1, 1971. It was in this ORDER that the U. S. Attorney's MOTION TO DISMISS was denied and your Petitioner's two PETITIONS were denied - thus denying your Petitioner the information which he had demanded in his own defense. This ORDER also informed your Petitioner that he had only 30 days in which to file his Brief - with or without the Documents.

IT IS THIS COURT ORDER denying your Petitioner the information necessary for his defense - without a hearing on the merits - as well as denying your Petitioner adequate time to finish his Appeals Brief after receipt of the necessary information WHICH IS IN CONTEST.

(12) On Thursday, April 29, 1971, less than 30 days from the issuance of the said ORDER on April 1, 1971, your Petitioner mailed to this Supreme Court 40 copies of a PETITION for Writ of Mandamus requesting relief in this Court by its granting to your Petitioner the Documents which he had attempted to obtain previously in the said Court of Appeals in his PETITIONS of October 12, 1970, and January 5, 1971, and which were denied in the said ORDER above. A copy was served upon the Clerk of the U. S. Court of Appeals Fifth Circuit, as well as the three Circuit Judges who had issued the said ORDER. This Supreme

Court PETITION included an extension of time request for the said Court of Appeals. On the following day, your Petitioner informed the said Court of Appeals Clerk again by letter of his action and requested an Extension of Time in which this PETITION could be heard by this Honorable Court.

(13) On that same Friday, April 30, 1971, Clerk Wadsworth of the said Court of Appeals issued an ENTRY OF DISMISSAL to the U.S. District Court for the Middle District of Alabama dismissing your Petitioner's Appeal. (see Appendix)

(14) On receipt by mail of this Action of the Clerk, your Petitioner immediately submitted a MOTION AND NOTICE OF MOTION dated May 3, 1971, requesting that the Court of Appeals vacate this ENTRY OF DISMISSAL thereby reinstating Petitioner's Appeal. (see Appendix for full request in this MOTION)

Your Petitioner has been informed by the Solicitor General that he is in receipt of his PETITION and, the Clerk of the Supreme Court has advised your Petitioner that this said PETITION was Docketed May 3, 1971, as No. 1667, October Term 1970.

(15) On Tuesday morning, May 18, 1971, your Petitioner received an ORDER dated May 14, 1971, from the said Court of Appeals in which his MOTION to vacate the ENTRY OF DISMISSAL was DENIED.

VI.
ARGUMENT

(a) Your Petitioner repeatedly sought from the said Court of Appeals information which was

necessary in his defense and for his Appeals Brief.

In the case of the one PETITION, your Petitioner had waited for over 5 months for the said Court of Appeals to act. In the other case, your Petitioner had waited over 2 months for the Appeals Court to act. When this said Court of Appeals denied these PETITIONS and in the same ORDER dated April 1, 1971 demanded that your Petitioner file his Brief within a 30 day period without granting him the necessary information and without permitting him to appeal to a higher Court such action was arbitrary and violated Due Process of Law. The Actions of the Appeals Court violated your Petitioner's right to petition as well as his right to appeal.

It is this ORDER dated April 1, 1971, from which your Petitioner originally sought relief in the pending PETITION for writ of Mandmaus, No. 1667 which was Docketed in the Supreme Court May 3, 1971.

It is this ORDER denying your Petitioner's Rights to Compulsory Process which began the deprivation of Due Process by the Appeals Court.

It is this ORDER which Demanded your Petitioner file his Brief within 30 days With or Without the Documents necessary for his defense.

It is this ORDER which the Court of Appeals reaffirmed - without a Hearing on its merits or Petitioner's argument or a complete Record upon which to base its Judgments. - when it DENIED your Petitioner's MOTION AND NOTICE OF MOTION dated May 3, 1971, in the said Court of Appeals ORDER dated May 14, 1971.

Your Petitioner states:

That the said Court of Appeals proceeded to take action on your Petitioner's PETITIONS

and the U. S. Attorney's MOTION TO DISMISS without a complete Record of your Petitioner's Case. Your Petitioner has recently seen what is called his "reconstructed" District Court Record and, over 20 Documents are missing as well as all of the Exhibits. (see Appendix for list of the missing Documents and Exhibits)

That the said Court of Appeals never requested the assistance of your Petitioner in completing the reconstruction of the burned up Files and, just the opposite - the Court of Appeals has refused to reveal the condition of the Files, etc. and has ignored every offer by your Petitioner to help replace the missing Documents.

That your Petitioner has specifically requested that the Court of Appeals not proceed with any Hearing unless the complete Record was available to the Court and, the Clerk of said Court has repeatedly ignored this request. Since these Documents and Exhibits are material to the administration of Justice, the said Court of Appeals, therefore, acted arbitrarily and deliberately in the face of an incomplete Record which actions denied your Petitioner due process of law.

There are many other pending matters before this said Court of Appeals which have never been resolved: Your Petitioner has repeatedly requested information in various letters and requested Extensions of Time in others. There is not a single item of information which your Petitioner has requested from the said Court which he has ever received from the Office of the Clerk of this Court of Appeals.

On Friday, April 30, 1971, the Clerk of Appeals dismissed your Petitioner's Appeal through an ENTRY OF DISMISSAL in spite of the

fact that Petitioner had invoked the jurisdiction of the Supreme Court to seek relief. Such action by the Clerk was null and void and without legal standing. Furthermore, this ENTRY OF DISMISSAL is void on its face since it was executed less than 30 days from April 1, 1971, the date the ORDER issued.

When your Petitioner was informed of this Action of the Clerk - the issuance of the ENTRY OF DISMISSAL - Petitioner immediately submitted a MOTION AND NOTICE OF MOTION dated May 3, 1971, requesting that the said Court of Appeals vacate the ENTRY OF DISMISSAL thereby reinstating Petitioner's Appeal. This MOTION was made upon "all the files, records and proceedings" etc. and, yet, this MOTION of your Petioner was DENIED without the said Court having the Record before it. The incomplete "reconstructed" District Court Files had been already returned to the District Court Clerk. Furthermore, all Documents relative to the errors of the respondent Judge Frank M. Johnson, Jr. were missing from this "reconstructed" District Court File. Such actions of the Court to issue an ORDER without consulting the evidence constitute a Denial of a Hearing and consequently Denial of Due Process of Law to your Petitioner. Your Petitioner's MOTION was also made upon the "grounds that Appellant had timely filed a Petition seeking relief from the Supreme Court". Petitioner was by law entitled to seek this relief by his PETITION to the Supreme Court and the said Court of Appeals possessed no lawful authority to deny your Petitioner this Right. The ORDER of the said Court of May 14, 1971 (Denying your Petitioner's request that the ENTRY OF DISMISSAL be vacated thereby reinstating your Petitioner's Appeal) was

arbitrary and denied your Petitioner Due Process of Law.

The Argument amplifying the reasons relied on for the allowance of this writ can be precisely stated in the words of the Supreme Court Rule 19(b) which says that certiorari will be granted:

> Where a court of appeals . . . has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervision.

Finally, more powerful than the words of Rule 19(b) are the words of the U. S. Constitution:

> This Constitution, and the laws of the United States which shall be made in pursuance thereof; . . . shall be the supreme law of the land; . . .

The Supreme Law says in Amendment V:

> No person shall . . . be deprived of life, liberty, or property, without Due Process of Law; . . .

Petitioner demands Due Process - the Right to be heard and the right to Appeal.

CONCLUSION: Your Petitioner believes that he has been deprived of the right of appeal by the arbitrary actions of the said U. S. Court of Appeals for the Fifth Circuit in dismissing his Appeal while it was still in effect. This Action was taken while Petitioner was appealing the issues involved in the said intermediate ORDER of

April 1, 1971, to the Supreme Court for relief through a PETITION FOR WRIT OF MANDAMUS dated April 23, 1971 and docketed May 3, 1971.

Your Petitioner further believes that said Appeal was dismissed arbitrarily and that the dismissal of his Appeal and the Denial of Petitioner's MOTION to grant reinstatment of his Appeal were in violation of Due Process of Law.

WHEREFORE, YOUR PETITIONER PRAYS That a writ of Certiorari will be issued by this Court directed to the Respondent Court of Appeals for the Fifth Circuit certified, demanding that said Court certify and send to this Court a complete transcript of the Record and all proceedings of the said Court of Appeals and the transcript and the proceedings filed in the U. S. District Court for the Middle District of Alabama to the end that said Case can be determined and reviewed by this Honorable Court as provided by law and to the end that the ORDER dismissing your Petitioner's Appeal be reversed and that the Appeal be directed to be reinstated and heard by the U. S. Court of Appeals for the Fifth Circuit, and, further that this Honorable Court may grant your Petitioner any other such relief as may seem appropriate.

May 26, 1971

Robert George Muncaster having first been duly sworn states that he has read the foregoing Petition and knows the contents thereof and the same is true to the best of his information, knowledge, and belief.

Sworn and Subscribed
before me this 26th
day of May, 1971

Virginia F. Farnell
Notary Public

Robert George Muncaster
Petitioner

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

U. S. COURT OF APPEALS
FILED
MAR 29 1971
EDWARD W. WADSWORTH
CLERK

No. 30202

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERT GEORGE MUNCASTER,

Defendant-Appellant.

Appeal from the United States District Court for the Middle District of Alabama

---

Before BELL, AINSWORTH and GODBOLD, Circuit Judges.

BY THE COURT:

IT IS ORDERED by this Court as follows:

(1) The motion filed on behalf of the Government to dismiss the appeal for want of prosecution, filed in the above styled and numbered cause, is hereby DENIED.

(2) If any documents are sought to be filed in this case with the clerk of this Court by Mrs. Esther Muncaster, as purported attorney or agent for the appellant, the clerk is directed that he shall not accept the same for filing but shall return the same to the sender. All correspondence, orders and other written communications of any kind from the clerk's office to appellant shall be sent by Registered (or Certified) Mail, Return Receipt Requested, and For Delivery to Addressee Only.

(3) Appellant is allowed thirty days from the date of this order within which to file his brief. The clerk is hereby directed that if appellant's brief is not filed within such time he shall forthwith enter an order dismissing the appeal.

(4) Appellant's petitions for writs of mandamus filed October 14, 1970 and January 7, 1971 are DENIED. His petition for a writ of prohibition filed October 14, 1970 is DENIED. His petition for a restraining order directed to the United States District Judge, the United States Attorney, and the clerk of this Court is DENIED.

A true copy
Test: EDWARD W. WADSWORTH
Clerk, U. S. Court of Appeals, Fifth Circuit

APR 1 1971

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
versus
ROBERT GEORGE MUNCASTER,
Defendant-Appellant.

No. 30202

ENTRY OF DISMISSAL

Appellant having failed to timely file his brief in accordance with the attached order of the court dated March 29, 1971, the above referenced appeal was duly entered dismissed this 30th day of April, 1971.

EDWARD W. WADSWORTH
Clerk of the United States Court
of Appeals for the Fifth Circuit

Edward W. Wadsworth

FOR THE COURT - BY DIRECTION

A true copy
Test: EDWARD W. WADSWORTH
Clerk, U. S. Court of Appeals

Edward W. Wadsworth

1971

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff, Appellee,
vs. No. 30202

Robert George Muncaster,
Defendant, Appellant.

MOTION AND NOTICE OF MOTION

TO: Ira DeMent, U. S. Attorney for Plaintiff, Appellee and to Plaintiff, Appellee:

YOU WILL PLEASE TAKE NOTICE, That Defendant, Appellant Robert George Muncaster hereby moves that Court to vacate the Entry of Dismissal herein dated April 30, 1971 and to grant Defendant, Appellant an extension of time wherein to file his brief and appendix herein to include the time that it is going to rule upon Defendant-Appellant's Petition for Writ of Mandamus filed with the United States Supreme Court plus an additional 30 days after its ruling on said Petition a copy of which is attached hereto.

The said Motion will be made upon all the files, records and proceedings and upon the grounds that Appellant had timely filed a Petition seeking relief from the U. S. Supreme Court to compel the production of legal Documents which are absolutely necessary for the preparation of Appellant's Brief in his own defense.

A copy of the letter dated April 30, 1971 is attached hereto, the facts of which contained therein are true. The Petition was deposited in the U. S. Mail to the U. S. Supreme Court on April 29, 1971. Copies of certified mail receipts are attached.

s/ Robert George Muncaster

STATE OF ALABAMA

SS

COUNTY OF MONTGOMERY

Robert George Muncaster, having been first duly sworn deposes and states that he has read and signed for (sic) foregoing Motion and Notice of Motion and the facts stated therein are true. That the facts stated in the attachments to the Petition are also true.

s/ Robert George Muncaster

Subscribed and sworn to
before me this May 3, 1971.

s/ E. C. Coreyale
Notary Public

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 30202

U. S. COURT OF APPEALS
FILED
MAY 14 1971
EDWARD W. WADSWORTH
CLERK

UNITED STATES OF AMERICA,

Plaintiff-Appellee

versus

ROBERT GEORGE MUNCASTER,

Defendant-Appellant.

- - - - -

Appeal from the United States District Court for the Middle District of Alabama.

- - - - -

Before BELL, AINSWORTH and GODBOLD, Circuit Judges.

BY THE COURT:-

IT IS ORDERED that appellant's motion to vacate this Court's Entry of Dismissal dated April 30, 1971 and to reinstate his Appeal and for an extension of time for the filing of his brief and Appendix for a period of thirty days from the United States Supreme Court's ruling on his Petition for Writ of Mandamus, is hereby DENIED.

A true copy
Test: EDWARD W. WADSWORTH
Clerk, U. S. Court of Appeals, Fifth Circuit

MAY 14 1971

APPELLANT'S DOCKET - 1

☐ CIVIL ☒ CRIMINAL ☐ BANKRUPTCY ☐ TAX COURT
☐ NLRB ☐ MOTION TO VACATE SENTENCE ☐ OTHER

COURT OF APPEALS NO. 30,202

CIRCUIT 5 APPEAL FROM Middle DISTRICT OF Alabama AT Montgomery
DATE DOCKETED 7/20/70 D.C. DOCKET NO. CR 12,114-N JUDGE Johnson
FEE PAID $25 DATE Paid 7/20/70 DATE NOTICE OF APPEAL FILED 6/22/70

UNITED STATES OF AMERICA,

Plaintiff-Appellee

versus

ROBERT GEORGE MUNCASTER,

Defendant-Appellant

APPEARANCE FILED-DATE	ATTORNEYS FOR APPELLANT
	Robert Cheek, 3929 Atlanta Hwy., Montgomery, Ala. P. O. Box 3101, 36109 Tel 272-0580
10/1/70	Arthur J. Hanes, Jr., 617 Frank Nelson Bldg., Birmingham, Ala. 3520
	Arthur J. Hanes, Sr., -do-
	Roberts C. Muncaster, (pro se), 1158 S. Perry St., Montgomery, Ala. 36104
APPEARANCE FILED-DATE	ATTORNEYS FOR APPELLEE
8/6/70	Ira de Ment
	U. S. Attorney, P. O. Box 197, Montgomery, Ala.
	D. Broward Segrest, Asst. U. S. Atty., -do-

RECORD	SENT TO	DATE
NUMBER OF VOLUMES 1		
EXS. ☒ ENV. ☐ BOX ☐ PKG. ☐ ROLL		
SUPPLEMENTAL ☐		
SECOND SUPPLEMENTAL ☐		
TRANSMITTED FOR SCREENING		
SCREENING CLASS ☐ III		
SCREENING CLASS ☐ IV	LOCATION OF HEARING	
SUMMARY CLASS II PANEL	HEARING PANEL	

APPELLANT'S DOCKET - 2

BEST AVA

TITLE: [illegible] NO. 30202

RECORD, EXHIBITS AND RICP INFORMATION	Filing:
Partial Record	
7/20/70 Record on Appeal	
Supp. Record on Appeal	
Second Supp. Record	
9/30/70 Exhibits ☑ Env. ☐ Env. ☐ Pkg. ☐ Roll	
9-31-70 Appendix ☐ (P) ☒ (D)	
Former Appeal Record	
Administrative Transcript	
Brief for Appellant	
Brief for Appellant	
Brief for Cr. Appellant	
Brief for Appellee	
Brief for Appellee	
Brief for Cr. Appellee	
Reply Brief for Appel	
Supp. Brief for Appellee	
Supp. Brief for Appellee	
Brief for Amicus	
Intervenor	
Pet. for Rehearing ☐ Appellant ☐ Appellee ☐ Reg. ☐ En Banc	

CRIMINAL APPEALS	Filing:
Order of DC Granting Appeal IFP	
Order of DC Appointing Counsel	
7/20/70 Dep. Notice of Appeal and Clerk's Statement of Docket Entries	
Affidavit of Financial Status	
C.J.A. 23 Appointing Counsel	
Motion to Appeal IFP	
Order on Motion ☐ Granted ☐ Denied	
Motion for Bail Pending Appeal	
Order on Motion ☐ Granted ☐ Denied	
Request for Appointment of Counsel	
Order on Motion ☐ Granted ☐ Denied	

AGENCY REVIEW CASES	Filing:
Petition for Review of Order of ☐ NLRB ☐ FPC ☐	
Application for Enforcement – NLRB	
Answer to Application for Enforcement	
Certified List of Documents	
Cross Application for Enforcement	

EXTENSIONS	Filing Motion(s)	Disposition of Motion(s)	Expiration Dt.
Record, Transcript or Certified List			
Order on Motion			
Designation - Appellant			
Designation - Appellee			
Designation			
8/24/70 Appendix			9/14/70
8/24/70 Appellant's Brief			9/14/70
9/3/70 Appellant's Brief (REW)			9/14/70
Appellant's Brief			
Appellee's Brief			
Appellee's Brief			
Appellee's Brief			
Reply Brief			
Pet. for Rehearing			

MISCELLANEOUS FILINGS
Order of D.C. Ext. time to File Record
Notice of Election Rule 39 (c)
Appellant's Designation
Appellee's Designation
8/13/70 Request to Withdraw Record
Statement of Issues
Memo of SLC Received
Papers transferred from Misc. Docket

CALENDAR INFORMATION
Rule 19 Notice Issued (Class II)
Class II Panel
Oral Argument Date
Place of Argument ☐ N. O. ☐ Hou ☐ Jax ☐ Atl ☐ Mgy ☐ FLW ☐
Case Argued ☐ by Appellant ☐ by Appellee
Case Submitted Without Argument
Hearing Panel
Case Cont'd for Reassignment
Case Reassigned to

OPINION & REHEARING INFORMATION
Opinion Rendered ☐ Aff'd ☐ Rev'd ☐ Rev'd & Rem'd ☐ Aff'd in Part ☐ Enf. ☐ Enf. Mod. ☐ Enf. in Part ☐ Dismissed ☐
Per
Judge ☐ Dissenting ☐ Concurring Spec. ☐ Dissenting in Pt
Order Denying Rehearing
Order Denying Rehearing and Rehearing En Banc
Order on Petition for Rehearing ☐ Per Curiam ☐ Per

APPELLANT'S DOCKET - 3.

LABLE COPY

Filing	Response Filed By	Date	Granted	Denied	By Court	By Clerk	Date
Dismiss by Appellant							
Dismiss by Appellee U.S.							
Hearing on Original Rec.							
Hearing on Original Rec. & Typed Brief							
Leave to File Typed Brief							
Appeal from Interlocutory Order							
Leave to File Brief in Excess of 50 pgs.							
Intervene							
Amicus Curiae							
Stay Pending Appeal							
Injunction Pending Appeal							
Stay Further Proceedings in C.A.							
Summary Reversal							
Summary Affirmance							
Mandamus							
Consolidate Appeals							
Docket Appeal Out of Time							
Stay of Mandate							
Recall of Mandate				✓		RCH	7/3/74
Withdraw as Counsel							
Expedite Appeal							

9. DOCKET ENTRIES

1/10/74	Flg. Petition and Motion to Dismiss and Objections to Motion to Dismiss Appeal or for Alternative Relief flo ;by U. S. Atty.

CODE TO ENTRIES

CE–Clerk's Endorsement
F–Filed
H–Handwritten
J–Sent to Judges
L–Large
M–Memo or Offset
P–Printed
PT–Preliminary Typed
S–Small
Sub–Submitted
T–Typed

10. MANDATE INFORMATION

Bill of Costs
Flg. & Ent'g. Judgment
Issg. Copy of Jdgt. to Bill & Cost.
Rec'd as Mdt. Issd. to Clerk
Record on Appeal Ret'd to Clerk
Exhibits Ret'd to Clerk

11. SUPREME COURT INFORMATION

Preparing Proceedings on Certiorari
Preparing Supp. Proceedings on Cert.
Transmitting Orig. Exhibits to Sup. C.
Order of Sup. Ct. – Cert. to
Notice of Filing of Cert. Petition
Order of Sup. Ct. ☐ Denied ☐ Granted
Notice of Filing of Petition for Rehearing
Action of Supreme Court
Issuance of Supreme Court

DOCUMENTS AND EXHIBITS MISSING FROM APPELLANT'S DISTRICT COURT FILE

1. AFFIDAVIT OF PREJUDICE with Attachments, May 7, 1970:

a. AFFIDAVIT of Petitioner (in part) accompanying Motion and Notice of Motion, November 19, 1969 which had been entered in another Case, which was published in an Alabama newspaper, The Wetumpka Herald, November 27, 1969. (see p. 72 Appendix*)

b. PETITION To The CONGRESS Of The UNITED STATES to impeach Frank M. Johnson, Jr., Judge.

c. LETTER from Wm. L. Dickinson, M. C. dated March31, 1970. (see p. 73 Appendix)

d. JOAN OF ARC vs STOOGE, published in an Alabama newspaper, The Montgomery Independent, May 3, 1967. (see p. 74 Appendix)

e. CHALLENGE TO AMERICA, a Nationwide Release on Constitution Day, 1969. A Statement by your Petitioner published and also radio broadcast over Richard Cotten's Conservative Viewpoint in the month of October 1969. (see pp. 26-32 with Attachment pp. 33-34 Appendix)

f. THE FREE MAN'S ANSWER, a Nationwide Release on January 17, 1970. This is a Statement of your Petitioner's son Charles on his reaching his 21st Birthday Anniversary which was broadcast over a Alabama radio station and which was published in an Alabama newspaper, The Wetumpka Herald, January 29, 1970. (see p. 75 Appendix)

---

* Appendix referred to is in Petitioner's Case No. 30202, U. S. Court of Appeals, 5th Circuit.

2. MOTION TO PRODUCE, filed May 7,1970. Note: This is the basis for your Petitioner's PETITION FOR WRIT OF MANDAMUS which was submitted to the said Court of Appeals on October 12, 1970, not docketed as of January 19, 1971 and denied in the said ORDER of April 1, 1971 and, which is the basis for the PETITION now before the Supreme Court, No. 1667 docketed May 3, 1971. (see pp. 76-82 Appendix)
3. SUPPLEMENTAL AFFIDAVIT OF PREJUDICE with Attachments, filed May 11, 1970:
   a. AMERICAN CHALLENGE publication, December 1, 1969. (see p. 98 Appendix)
   b. Have You Ever Read... THE UNITED NATIONS CHARTER? publication. (see p. 99 Appendix)
4. QUESTIONS TO BE ASKED JURY, filed May 14, 1970. (see p. 120 Appendix)
5. MOTION FOR JUDGMENT OF ACQUITTAL, filed May 14, 1970. (see p. 121 Appendix)
6. REQUESTED CHARGES BY DEFENDANT, No. 1 and No. 2, filed May 14, 1970. (see pp. 121-122 Appendix)
7. JURY VERDICT, filed May 14, 1970. (see p.122 Appendix)
8. COMPLAINT, sworn and subscribed November 26, 1969. (see p. 21 of Appendix)
9. WARRANT OF ARREST, November 26, 1969. (see p. 22 Appendix)
10. NOTICE by your Petitioner to the U. S. Attorney, Selective Service Officials, Federal Bureau of Investigation and the United States Marshall, November 28,1969, with attachments: (see p. 20 Appendix)
    a. NOTICE by your Petitioner to the U. S. Attorney for the Middle District of Alabama and the Selective Service Office, November 14, 1969. (see pp. 23-25 Appendix)
    b. THE CHALLENGE TO AMERICA (see above 1e)

c. THE DALY EAGLE, February 7, 1969, a publication regarding the Decision in First National Bank of Montgomery vs Jerome Daly, In Justice Court, Township of Credit River, County of Scott, State of Minnesota heard before Justice Martin V. Mahoney, December 7, 1968.

GOVERNMENT EXHIBIT No. 1: Certified copy of Indictment, Case No. 12, 252-N, U. S. District Court for the Middle District of Alabama.

GOVERNMENT EXHIBIT No. 2: Certified copy of the Judgment of Conviction in the above-mentioned Case.

GOVERNMENT EXHIBIT No. 3: Trial Transcript in the above-mentioned Case.

GOVERNMENT EXHIBIT No. 4: Affidavit of your Petitioner, filed May 13, 1970.

GOVERNMENT EXHIBIT No. 5: WMGY-Radio Interview-Robert G. Muncaster, November 24, 1969.

GOVERNMENT EXHIBIT No. 6: WMGY-Radio Interview-Robert G. Muncaster, December 2, 1969.

GOVERNMENT EXHIBIT No. 7: WSFA-T. V. News Interview-Robert G. Muncaster, November 28, 1969.

GOVERNMENT EXHIBIT No. 8: WCOV-Radio, Interview-Robert G. and Esther Muncaster on the "Viewpoint" Program.

DEFENDANT EXHIBIT: Charles R. Muncaster, Notice to Draft Board, November 25, 1969.